

**THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO
W.P.No.5107 of 2006**

Dated: 05.06.2006

Between

Kenaz Poonawala and 2 others

.....Petitioners
and

The Municipal Corporation of Hyderabad
Represented by its Commissioner,
Tank Bund Road, Saifabad,
Hyderabad
Respondents

...

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WP No.5107 of 2006

ORAL ORDER : (per JC,J)

Writ petition is filed with the prayer as follows :

“For the reasons stated in the accompanied affidavit the petitioners herein therefore humbly prays that this Honourable Court may be pleased to issue a Writ or Writs more appropriately a Writ of Mandamus declaring the proceeding of the 2nd respondent bearing No.0142/C10/TC6/ MCH/2006, dated 17.2.2006 is illegal, void, *ultra vires* and unconstitutional, consequently declare that the notice dated 1.3.2006 as illegal and void, in the interest of justice and equity or pass any other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.”

The three petitioners claim to be the joint owners of the property bearing Municipal No.4-1-358/1/A,B,C,D situated at Hanuman Tekdi, Hyderabad. Earlier the said property was being taxed under the provisions of the Hyderabad Municipal Corporation Act, 1955 at Rs.46,778/- per annum. Subsequently, a notice under Section 220 was issued proposing to enhance the tax at Rs.66,297/- for half year. The petitioners admittedly raised certain objections to the proposals. The 2nd

respondent by his proceedings dated 17.2.2006 by a laconic order purported to dispose of the objections confirming his earlier proposal. In fact, the relevant portion of the proceeding reads as follows :

“Under the power delegated to the Assessor & Collector and after due consideration the Annual Retable value of your property bearing No.4-1-358/1/A,B,C,D, Troop Bazar, Hyderabad has been confirmed to Rs.4,54,716/- with effect from 01.04.2004 and Annual Tax is fixed Rs.1,32,595/-.”

Neither the objection of the petitioners is stated nor any consideration was bestowed upon such an objection. Challenging the said proceeding, the present writ petition is filed.

Notice before admission was ordered on 16.3.2006 and an interim order suspending the assessment made was passed on condition the petitioners deposit an amount of Rs.65,000/- (Rupees Sixty five thousand) within a period of two weeks from that day.

When the matter is taken up today, it is represented by the learned counsel for the petitioner that the conditional interim order has already been complied with.

Heard the learned counsel for the respondents.

Having regard to the baldness of the impugned order, we deem it appropriate to dispose of the writ petition at this stage allowing the writ petition, quashing the impugned order. We further direct the 2nd respondent to consider the objections raised by the petitioner and pass an appropriate order in accordance with law within a period of four weeks from the date of the receipt of the order. Depending on the decision of the 2nd respondent under consideration as directed above, the amount already deposited shall either be adjusted towards the tax if any payable or refunded to the petitioner otherwise.

Knk
Dt : 05.06.2006

J.CHELAMESWAR,J

D.APPA RAO,J